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**IN THE  
COURT OF APPEALS OF INDIANA**

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| SEAN M. BULLOCK,      | ) |                       |
|                       | ) |                       |
| Appellant-Petitioner, | ) |                       |
|                       | ) |                       |
| vs.                   | ) | No. 29A04-0609-CR-492 |
|                       | ) |                       |
| STATE OF INDIANA,     | ) |                       |
|                       | ) |                       |
| Appellee-Respondent.  | ) |                       |

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APPEAL FROM THE HAMILTON SUPERIOR COURT  
The Honorable Wayne Sturtevant, Judge  
Cause No. 29D05-0602-CM-699

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**April 19, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**KIRSCH, Judge**

Sean M. Bullock (“Bullock”) appeals his conviction in a bench trial for possession of marijuana as a Class A misdemeanor. He raises one issue, which we restate as whether the trial court erred in admitting evidence obtained during an investigatory stop.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

In the early morning hours of December 22, 2005, Hamilton County Sheriff’s Department Detective Todd Uhrick was working surveillance at Beaver Materials Gravel Company on River Road in Noblesville. There had been six to eight burglaries in the area in the proceeding sixty days. At approximately 12:45 a.m., Detective Uhrick observed a vehicle pull in behind Beaver’s business office and weigh station near a coin changer that had been broken into in the past. Detective Uhrick watched through binoculars as the vehicle’s lights went out. He then noticed that the car’s dome light came on. The detective was unable to tell whether anyone got out of the car.

A few minutes later, Detective Uhrick radioed Hamilton County Sheriff’s Department Sergeant Jason Sloderbeck who was also working surveillance in the area. Detective Uhrick asked Sergeant Sloderbeck to stop the vehicle, identify its occupants, and check the security of the business. Sergeant Sloderbeck stopped the vehicle on River Road and asked Bullock, the car’s driver, for his license and registration. As Bullock reached for his license, Sergeant Sloderbeck noticed on the seat next to Bullock a small plastic baggie with a green leafy substance in it. The sergeant asked Bullock to hand him the baggie, and Bullock confirmed that the substance was marijuana. A subsequent search of the vehicle revealed more marijuana under the front seat.

Bullock was charged with possession of marijuana as a Class A misdemeanor. He filed a motion to suppress the marijuana found during the investigatory stop, which the trial court denied. The court admitted the marijuana at trial, and Bullock was convicted as charged. He now appeals.

## **DISCUSSION AND DECISION**

Bullock's sole argument is that the trial court erred in admitting into evidence the marijuana found during the investigatory stop because Sergeant Sloderbeck lacked reasonable suspicion for the stop. Bullock claims that both his federal and state constitutional protections were violated.

Our standard of review of rulings on the admissibility of evidence is effectively the same whether the challenge is made by a pre-trial motion to suppress or by a trial objection. *Burkes v. State*, 842 N.E.2d 426, 429 (Ind. Ct. App. 2006), *trans. denied*. We look for substantial evidence of probative value to support the trial court's decision. *Id.* We consider the evidence most favorable to the court's decision and any uncontradicted evidence to the contrary. *Id.*

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. *Id.* Police officers may, however, briefly detain a person for investigatory purposes if, based on specific, articulable facts, they have a reasonable suspicion that criminal activity may be afoot. *Id.* (citing *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)). Reasonable suspicion exists where the facts known to the officer at the moment of the stop, together with the reasonable inferences arising therefrom, would cause an ordinarily prudent person to believe that criminal activity has occurred or is

about to occur. *Id.* at 429-30. In deciding whether there was reasonable suspicion for a stop, we look to the totality of the circumstances of a given case. *Id.* at 430. Consideration of a totality of the circumstances necessarily includes a consideration of whether the defendant's actions were suspicious. *Johnson v. State*, 856 N.E.2d 706, 711 (Ind. Ct. App. 2005). The reasonable suspicion inquiry is fact sensitive and is thus determined on a case by case basis. *Burkes*, 842 N.E.2d at 430. A court seeking to determine the existence of reasonable suspicion must require an officer to articulate the factors leading to that conclusion. *Davis v. State*, 858 N.E.2d 168, 172 (Ind. Ct. App. 2006). We review a trial court's determination regarding reasonable suspicion de novo. *Burkes*, 842 N.E.2d at 430.

Under Article 1, Section 11 of the Indiana Constitution, the search and seizure analysis is slightly different than under the Fourth Amendment of the United States Constitution. *Davis*, 858 N.E.2d at 173. In deciding whether a warrantless search and seizure violates Article 1, Section 11, we must determine whether, under the totality of the circumstances, the investigatory stop was reasonable. *Id.* A brief police detention of an individual during investigation is reasonable if the officer reasonably suspects that the individual is engaged in or is about to engage in illegal activity. *State v. Atkins*, 834 N.E.2d 1028, 1034 (Ind. Ct. App. 2005), *trans. denied*.

Here, Bullock contends that his presence in a high crime area was an insufficient basis to justify the investigatory stop. He is correct that a defendant's presence in a high crime area, *standing alone*, is an insufficient ground upon which to conduct a search, although said presence can be considered as a factor in the totality of the circumstances confronting the officer at the time of the stop. *Green v. State*, 719 N.E.2d 426, 429 (Ind. Ct. App. 1999)

(emphasis added).

However, Bullock's presence in a high crime area was not the sole basis for the investigative stop in this case. Rather, Bullock was in a high crime area on private property at 12:45 a.m. Specifically, Bullock drove his car behind the gravel company's business office and weigh station near a coin changer that had been broken into in the past, and turned off his lights. A few minutes later, Bullock's dome light came on, indicating that someone may have gotten out of the car. Shortly thereafter, Bullock drove away from the property.

These specific and articulable facts would lead an ordinarily prudent person to believe that criminal activity had occurred and therefore provided reasonable suspicion for the investigatory stop. Further, under the totality of the circumstances in this case, the investigatory stop was reasonable under the Indiana Constitution. Because the investigatory stop was valid under both the federal and Indiana Constitutions, the trial court did not err in admitting into evidence the marijuana found during the stop.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.